



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

April 17, 2020

**By ECF**

The Honorable J. Paul Oetken  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *State of New York v. Department of Labor et al.*, No. 20 Civ. 3020 (JPO)

Dear Judge Oetken:

This Office represents Defendants, the Department and Secretary of Labor, in this Administrative Procedure Act case challenging a final rule issued pursuant to certain paid leave provisions under the Families First Coronavirus Response Act. Plaintiff the State of New York commenced this action by filing a complaint on April 14, 2020. Dkt. No. 1. On the same day, the State also filed a motion for summary judgment, Dkt. No. 3, and a motion to “Shorten the Defendants’ Time to Respond” to the motion to one week, Dkt. No. 5. Pursuant to the Court’s order dated April 16, 2020, Dkt. No. 13, we write respectfully to request that the Court permit Defendants to file their response to the State’s motion and any cross-motion by April 28, 2020, or two weeks from the date the action was commenced.

The Federal Rules of Civil Procedure state that in actions against the United States and its agencies, the Government must respond to the complaint within 60 days of service. *See* Fed. R. Civ. P. 12(a)(2). Recognizing the exigent circumstances created by the ongoing COVID-19 pandemic, the undersigned counsel have been proceeding with all due haste to prepare to respond to this new litigation. We have been working diligently to get up to speed on the issues raised in the complaint and the motion, including by consulting with the relevant agency officials. Nevertheless, given the novelty and complexity of the statutory framework and rulemaking at issue in this case, we respectfully submit that it is infeasible to prepare thorough and competent briefing for the Court’s benefit by this Tuesday, April 21, the deadline proposed by the State.

Accordingly, Defendants respectfully oppose the State’s motion to expedite and request that they be permitted to respond to the State’s motion for summary judgment by April 28, 2020. We thank the Court for its consideration of this request.

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney

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cc: Counsel for Plaintiff (by ECF)